

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYNQOR, INC.

Plaintiff,

v.

CISCO SYSTEMS, INC.

Defendant.

Civ. No. 2:14-CV-286-MHS-CMC

JURY TRIAL DEMANDED

JOINT MOTION TO AMEND SCHEDULING ORDER

Plaintiff SynQor, Inc. and Defendant Cisco Systems, Inc. hereby respectfully move the Court to amend the Court's Scheduling Order (Dkt. 21) regarding the issues outlined below. The parties have met and conferred and reached agreement regarding various deadlines and some pretrial procedures and have agreed to jointly request modification of the Court's Scheduling Order as set forth below. These amendments do not affect the scheduled pretrial conference or potential trial dates.

Extension of Discovery, Rebuttal Report and Dispositive Motion Deadlines

The Court previously ruled on the service of rebuttal reports noting that "the parties have agreed that the deadline for any rebuttal reports should be earlier so that expert depositions would occur after a reasonable opportunity for the opposing party to review the substance of those reports." Dkt. 49 at 1. The Court further indicated that the parties could "move to modify the due dates for rebuttal reports and the deadline for the expert discovery." *Id.* The parties have met and conferred and agree to shorten the deadline for rebuttal reports in response to reports on issues on which the party does not bear the burden of proof from the 30 days allowed under the Scheduling Order to 10 days (moving the deadline to May 19). *See* Dkt. 21 II.1(c). The parties have also scheduled expert depositions in this and related Case No. 2:14-cv-287 ("287 case") to

proceed after this shortened rebuttal deadline. In light of the number of expert deposition days and coordinating schedules of the experts and counsel in this and the '287 case, the parties respectfully request that the discovery period be extended to June 9 to accommodate completion of expert depositions in this case.

The parties also respectfully request that the Court extend the deadline for dispositive motions (including *Daubert* motions) to June 30. The Court's previous scheduling order allowed more than a month between the close of discovery and dispositive motions. *See* Dkt. 21. The parties have now agreed and respectfully request that the discovery deadline be extended to June 9 to allow for the completion of expert depositions, and the parties have arranged to mediate this case on June 10 and 11 prior to the Court's June 13 deadline. *See* Dkt. 21 (deadline for required mediation). The parties request an extension of the dispositive motion deadline to June 30 to allow the parties to review the depositions of the experts and prepare their dispositive motions. Such an extension would allow for complete briefing under the timelines provided in the local rules by Aug. 11 (assuming every brief were served after 5 P.M.) in advance of the pretrial conference on Sept. 23.

Accordingly, the parties respectfully request an extension of these deadlines as set forth below:

Description of Deadline	Current Deadline	New Deadline
Discovery deadline	May 16, 2014	June 9, 2014
Rebuttal to reports on issues on which the party does not bear the burden of proof (II.1(c))	30 days after May 9, 2014	May 19, 2014
Deadline for dispositive motions (including <i>Daubert</i> motions)	June 20, 2014	June 30, 2014

Exchange of Demonstratives During Trial

The Scheduling Order provides for the exchange and filing of "[a] list of exhibits (including demonstrative exhibits)" in advance of trial. Dkt. 21 at 6-7 (emphasis added). The parties have agreed to a schedule for the disclosure of demonstratives that are to be used at trial

each day prior to their use and respectfully request the Court permit this exchange in lieu of the exchange with initial exhibit lists. Additionally, the parties have agreed to the disclosure of a list of exhibits that are to be used at trial each day along with a proposed schedule for resolving any objections and, if necessary, bringing such issues to the Court's attention during trial.

Responses to Exhibit List Objections

The Scheduling Order requires the parties to file written objections to the opposing party's exhibits with the pretrial order and further requires responses to objections "within two business days of the filing of the objections." Dkt. 21 at 7. The parties respectfully request that the time period for responses be extended to one week from the filing of the written objections. This will enable the parties to more carefully consider and respond and will still provide the Court with written objections and responses more than two weeks in advance of the Sept. 23, 2014, pretrial conference.

Motions in Limine

The Scheduling Order requires responses to motions in limine to be filed "within two business days of the filing of the motion." Dkt. 21 at 8. The parties respectfully request that the time period for responses be extended to one week from the filing of the motion. This will enable the parties to more carefully consider and respond and will still provide the Court with written motions in limine and responses more than two weeks in advance of the Sept. 23, 2014, pretrial conference.

The parties bring this motion not for purposes of prejudice or undue delay, but to enable the parties' agreement regarding discovery and pretrial procedures and so that substantial justice may be done. A proposed order is attached.

Dated: May 14, 2014

/s/ David T. DeZern

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Dated: May 14, 2014

Respectfully submitted,

/s/ Louis W. Tompros

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on May 14, 2014.

/s/ David T. DeZern

David T. DeZern